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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,724	10/09/2001	Akihiko Toyoshima	50P4257.04	7817
36738 7590 06/26/2009 ROGITZ & ASSOCIATES 750 B STREET SUITE 3120 SAN DIEGO, CA 92101				
EXAMINER BHATTACHARYA, SAM				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
06/26/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte*: AKIHIKO TOYOSHIMA

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Application 09/974,724  
Technology Center 2600

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Mailed: June 26, 2009

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Before ERIC W. HAWTHORNE, *Supervisory Paralegal Specialist*  
HAWTHORNE, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 30, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

### INFORMATION DISCLOSURE STATEMENT

Appellant filed Information Disclosure Statements (IDSs) dated October 21, 2004 and June 8, 2006. There is no indication on the record that the Examiner has considered the above Information Disclosure Statement filed October 21, 2004. While it appears the examiner has considered the Information Disclosure Statement filed June 8, 2006, because the Examiner's signature is provided at the bottom of the PTO 1449, the reference has not been initialed or crossed through. MPEP § 609 requires the Examiner to consider any Information Disclosure Statement filed by Applicant if timely submitted. A written communication notifying Appellant of the Examiner's consideration of the above Information Disclosure Statement is required.

### CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) consider the Information Disclosure Statements filed October 21, 2004 and June 8, 2006.
- 2) provide appropriate written notification by the Examiner to Appellant of such consideration; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

Application 09/974,724

EWB/pgc

ROGITZ & ASSOCIATES  
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SUITE 3120  
SAN DIEGO CA 92101